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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1396th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 March 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, OBSERVATIONS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations of the Committee concerning the twelfth, thirteenth and fourteenth periodic reports of France (continued) (CERD/C/56/Misc.20/Rev.3, document distributed in the meeting room in English only)

1. The CHAIRMAN invited the members of the Committee to continue their consideration of the draft concluding observations concerning the twelfth, thirteenth and fourteenth periodic reports of France. Since he had not been able to be present at the end of the preceding meeting, he requested Mr. Banton, Country Rapporteur to recall which paragraphs of the draft concluding observations had already been adopted.

2. Mr. BANTON (Country Rapporteur) said that paragraphs 1, 3 and 5 had been adopted.

Paragraph 2

3. Mr. BANTON (Country Rapporteur) proposed that the second sentence should be retained, but with the second part deleted.

4. Ms. ZOU said that the dates mentioned should be deleted.

5. Mr. BANTON (Country Rapporteur) proposed the following wording: "... it regrets the late submission of the present reports".

6. Mr. ABOUL-NASR said that, in order to ensure equal treatment of all States parties, the Committee must express regret whenever a State party submitted its report late.

7. Paragraph 2, as amended, was adopted.

Paragraph 4

8. Mr. BANTON (Country Rapporteur), supported by Mr. de GOUTTES, proposed that the words "the work of the study group on discriminations" should be added in the fourth line after the word "citizenship" to complete the list of new measures implemented by the State party.

9. Paragraph 4, as amended, was adopted.

Paragraph 6

10. Mr. VALENCIA RODRIGUEZ said that the reference in the last part of the sentence to paragraph 8 of the Committee's reporting guidelines might give the impression that the other paragraphs were not applicable. He therefore proposed that the part of the sentence after the word "Convention" should be deleted.

11. Mr. BANTON (Country Rapporteur) said that the reference to paragraph 8 of the guidelines had been introduced to facilitate the work of State party officials, but, if the majority of members were in favour of its deletion, he would support their decision.

12. The CHAIRMAN said that brief consultations showed that the majority of the Committee members were in favour of the deletion of the last part of paragraph 6, after the word "Convention".

13. Paragraph 6, as amended, was adopted.

Paragraph 7

14. Mr. DIACONU proposed that the words "of 1994" after the word "recommendation" should be deleted.

15. Paragraph 7, as amended, was adopted.

Paragraph 8

16. Ms. ZOU said that she did not understand the meaning of the expression "the delegation of responsibilities which should be exercised by State officials" at the end of the paragraph. What responsibilities were meant and to whom were they delegated? The sentence should be deleted or redrafted.

17. Mr. BANTON (Country Rapporteur) explained that those words meant the delegation to airlines of the responsibilities of State border control officials.

18. Mr. BOSSUYT said that, according to the replies given by the French delegation, that issue had apparently been regulated by the Act of 11 May 1998, which did not question the possibility for transport operators to carry refugees and did not regard them as acting on behalf of the competent French supervisory authorities" (CERD/C/SR.1374, para. 14). The fact that airlines must ensure that their passengers had valid identity papers did not mean that responsibilities which should be exercised by French State officials were being shifted onto them. He would thus also be in favour of deletion of the last part of the paragraph, after the word "visas".

19. Mr. DIACONU said that, in order to make the text clearer, the words "of foreigners" in the second line could be deleted and, in the third line, the word "including" - and the comma preceding it - could be replaced by the word "of".

20. Mr. FALL, supported by Mr. ABOUL-NASR, said that the fact that a person holding a valid visa issued by a French consulate and possessing sufficient resources could be turned back at the airport on arrival on French soil, often because he did not know the language well enough to explain his situation, was very shocking in itself, even if only a rare occurrence. It was thus important to retain the last part of the sentence.

21. Mr. NOBEL and Mr. SHAHI said that they were also in favour of retaining the last part of the sentence.

22. The CHAIRMAN noted that the majority of the members of the Committee were in favour of retaining the last part of the sentence.

23. Paragraph 8 was adopted.

Paragraphs 9 and 10

24. Paragraphs 9 and 10 were adopted.

Paragraph 11

25. Mr. DIACONU proposed that the words "The Committee repeats its recommendation of 1994 that France" at the beginning of the paragraph should be replaced by the words "The Committee recommends that France ...".

26. Mr. FALL, supported by Mr. ABOUL-NASR, said that, if the Committee was repeating a recommendation, there was no reason to change paragraph 11.

27. The CHAIRMAN proposed that the word "repeats" should be replaced by the word "reiterates".

28. Paragraph 11, as amended, was adopted.

Paragraph 12

29. The CHAIRMAN said that the word "repeats" should be replaced by the word "reiterates".

30. Paragraph 12, as amended, was adopted.

Paragraph 13

31. Mr. BRYDE said that paragraph 13 did not take account of the clarifications provided by the State party. As was clearly reported in paragraph 43 of the relevant summary record (CERD/C/SR.1374), Mr. Capin Dulhoste had said that "French law made a distinction between justification of crimes against humanity, which was understood as justification of all crimes against humanity with no restriction in time, and questioning the existence of crimes against humanity, which applied only to crimes committed during the Second World War ... to combat the newly emerging revisionist trend, which should not be given the benefit of freedom of expression ... [and that in] any event, French law punished the crime itself, whether it involved deportation, forced sterilization or genocide, with no restriction in time".

32. Mr. ABOUL-NASR, supported by Mr. FALL, said that he was in favour of retaining paragraph 13 and possibly redrafting it to take account of the clarifications provided by the French delegation. He remained convinced that certain crimes against humanity such as slavery, for example, were not always recognized or condemned in that country.

33. Mr. BANTON said that another possibility would be to move paragraph 13 to section B, which was devoted to positive aspects and where it would form a new paragraph 6. That would enable credit be given to the State party for the reform of the Penal Code that had been announced. The paragraph could be redrafted to read: "Since the Committee considers that the prohibition of attempts to justify crimes against humanity, and of their denial, should not be limited to those committed during the Second World War, it welcomes the assurances provided by the delegation and requests that they report thereon in their next periodic report".

34. Paragraph 13, as amended, was adopted, on the understanding that it would be moved to section B to form paragraph 6. The old paragraphs 6 and 12 would be renumbered accordingly.

Paragraphs 14 to 18

35. Paragraphs 14 to 18 were adopted.

Paragraph 19

36. Mr. DIACONU said that there was no need to request the State party to respond to questions relating to the consideration of an earlier report.

37. Mr. BANTON said that, on the contrary, the Committee must be firm and not allow States parties to choose which questions they wished to answer.

38. Mr. ABOUL-NASR, agreeing with Mr. Banton, said that, in drafting its concluding observations concerning the consideration of reports, the Committee should ensure that it did not only raise questions that had not been answered, but should also express its appreciation for all the questions on which replies had been given.

39. After a discussion in which Mr. BOSSUYT, Mr. BANTON and the CHAIRMAN took part, the CHAIRMAN suggested that paragraph 19 should be adopted as it stood.

40. Paragraph 19 was adopted without amendment.

41. The draft concluding observations concerning the twelfth to fourteenth periodic reports of France, as a whole, as orally amended, were adopted.

42. Mr. de GOUTTES said that he had not taken part in the discussion because of his nationality and for the sake of impartiality. He nevertheless regretted that the adoption of concluding observations concerning a francophone State whose delegation had spoken in French had been based on an English text. As a matter of principle, that also applied in the case of the concluding observations concerning Spain.

Draft concluding observations of the Committee concerning the fourteenth and fifteenth periodic reports of Spain (CERD/C/56/Misc.37/Rev.2, document distributed in the meeting room in English only)

Paragraphs 1 to 3

43. Paragraphs 1 to 3 were adopted.

Paragraph 4

44. Ms. ZOU proposed that the words "which it will closely follow" should be replaced by the words "which will be closely followed" and the word "clandestine" in respect of immigrants by the word "illegal".

45. Paragraph 4, as amended, was adopted.

Paragraph 5

46. Mr. BOSSUYT suggested that the expression "Gypsy Development Programme" should be placed in inverted commas to make it clear that it was a title.

47. Paragraph 5, as amended, was adopted.

Paragraph 6

48. Mr. ABOUL-NASR said that the words "violence against non-Spanish nationals" were not entirely accurate.

49. After a discussion in which Mr. RESHETOV (Country Rapporteur), the CHAIRMAN, Mr. LECHUGA HEVIA and Mr. FALL took part, it was proposed that the words "violence against certain foreigners" should be used.

50. Paragraph 6, as amended, was adopted.

Paragraphs 7 and 8

51. Paragraphs 7 and 8 were adopted.

Paragraph 9

52. After a discussion in which Ms. ZOU, Mr. RESHETOV and Mr. DIACONU took part, it was proposed that the words "ethnic and national minorities" should be replaced by the words "ethnic or national minorities".

53. Paragraph 9, as amended, was adopted.

Paragraphs 10 and 11

54. Paragraphs 10 and 11 were adopted.

Paragraph 12

55. Ms. ZOU proposed that the words "clandestine immigrants" should be replaced by the words "illegal immigrants".

56. Paragraph 12, as amended, was adopted.

Paragraph 13

57. Paragraph 13 was adopted.

Paragraph 14

58. Mr. ABOUL-NASR proposed that the words "the Committee requests" should be replaced by the words "the Committee recommends".

59. Mr. RESHETOV proposed that the word "imposing" should be replaced by the words "which imposes".

60. Paragraph 14, as amended, was adopted.

Paragraph 15

61. Paragraph 15 was adopted.

Paragraph 16

62. Mr. RESHETOV proposed that, at the end of the first line, the words "which was" should be inserted before the word "due" and that, in the second line, the word "all" should be deleted.

63. Paragraph 16, as amended, was adopted.

64. The draft concluding observations concerning the fourteenth and fifteenth periodic reports of Spain, as a whole, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the thirteenth and fourteenth periodic reports of Malta (CERD/C/56/Misc.34/Rev.2, document distributed in the meeting room in English only)

Paragraphs 1 to 5

65. Paragraphs 1 to 5 were adopted.

Paragraph 6

66. Mr. FALL, supported by Mr. DIACONU (Country Rapporteur), proposed that, at the end of the first line, the word "fully" should be deleted.

67. Paragraph 6, as amended, was adopted.

68. The CHAIRMAN noted that there was no paragraph 7. The following paragraphs of the Committee's concluding observations would be renumbered accordingly by the secretariat.

Paragraph 8

69. Mr. DIACONU proposed that, in the second line, the word "and" should be inserted after the word "carefully".

70. Paragraph 8, as amended, was adopted.

Paragraph 9

71. Paragraph 9 was adopted.

Paragraph 10

72. Mr. ABOUL-NASR said that, as it stood, paragraph 10, which did not refer to the need for the State party to consider allegations of racial discrimination in housing, implied that all claims were necessarily well founded. He would, however, not object to the adoption of the paragraph.

73. The CHAIRMAN proposed that the words "with the view" should be replaced by the words "with a view".

74. Paragraph 10, as amended, was adopted.

Paragraphs 11 and 12

75. Paragraphs 11 and 12 were adopted.

Paragraph 13

76. Mr. BRYDE said he did not think that Maltese lawmakers could, as the wording of paragraph 13 suggested, provide that, apart from disciplinary action, criminal charges could not be brought against police officers who violated the new Police Code.

77. Ms. ZOU said that she agreed with Mr. Bryde. If she was not mistaken, the periodic report of Malta simply stated that a police officer who treated someone in a discriminatory manner committed an offence that was subject to disciplinary action. She therefore did not think that Maltese law provided protection from criminal proceedings for police officers who had

committed offences. The Committee should not enter into a discussion of that sensitive issue. A solution might therefore be to replace the words "It is recommended that the State party review the new Police Code with a view to ensuring" by the words "It is recommended that the State party take the necessary steps to ensure".

78. Mr. DIACONU said that Ms. Zou's proposal was very much to the point. He proposed that the words "in violation of the Code" should be deleted.

79. Paragraph 13, as amended, was adopted.

Paragraphs 14 to 16

80. Paragraphs 14 to 16 were adopted.

81. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Malta, as a whole, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the fourteenth periodic report of Denmark (CERD/C/5/56/Misc.30/Rev.2, document distributed in the meeting room in English only)

Paragraph 1

82. Paragraph 1 was adopted.

Paragraph 2

83. Ms. JANUARY-BARDILL proposed that, in the third sentence, the word "competent" should be deleted because it might make it look as though the Committee was patronizing the Danish delegation.

84. Paragraph 2, as amended, was adopted.

85. The CHAIRMAN noted that there was no paragraph 3. The subsequent paragraphs of the Committee's concluding observations would be renumbered accordingly.

Paragraph 4

86. Paragraph 4 was adopted.

Paragraph 5

87. Mr. RESHETOV said that he did not see the point of the last sentence, which referred to a measure taken by the Danish Parliament to assist aliens to return to their countries of origin, contrary to the purpose of paragraphs 5 and 6, which was to improve the integration of aliens in Denmark. How was that apparent contradiction to be understood?

88. Mr. YUTZIS (Country Rapporteur) said that the wording referred to the Danish Government's policy for the integration of aliens, which provided for the return of aliens to their countries of origin, the main aim of the general policy being, however, to integrate aliens into Danish society.

89. Mr. BANTON said that, during the consideration of Denmark's periodic report, several members of the Committee had noted that Denmark took the concept of integration in the unusual sense of the assimilation of asylum-seekers and immigrants into Danish society. The delegation had, moreover, transmitted an official document to the Committee stating that the Government of Denmark considered the integration of aliens into Danish society as the most effective means of enabling them to return to their countries of origin because it gave them access to resources which could only facilitate their return. The authors of the draft concluding observations had tried to reflect that original approach to the integration of aliens.

90. In order to make the text clearer, one solution might be to connect the two parts of the sentence by the words "even though".

91. The CHAIRMAN proposed that Mr. Yutzis might work with Mr. Banton on a new text to be submitted to the Committee for adoption.

92. It was so decided.

Paragraph 6

93. Paragraph 6 was adopted.

Paragraph 7

94. Mr. YUTZIS proposed that the words "might lead to discrimination" in the first sentence should be replaced by the words "which might increase the risk of discrimination".

95. Mr. BOSSUYT said that, in his view, the content of the first sentence was not a matter of concern. It was, rather, a necessity: aliens must be integrated at the local level, not at the national level. He therefore proposed that the words "The Committee is concerned" should be replaced by the words "The Committee notes" and that the second part of the sentence, after the comma, should be deleted.

96. Mr. RESHETOV, Mr. ABOUL-NASR, and Mr. YUTZIS said that they agreed that the words "is concerned" should be replaced by the word "notes".

97. Mr. YUTZIS said that local authorities took decisions which affected refugees the most and the purpose of the first sentence was therefore preventive.

98. Mr. BRYDE, supported by Mr. FALL and Mr. de GOUTTES, said that he agreed with Mr. Bossuyt's proposal because it was not up to the Committee to make recommendations to the Government on the level at which decisions should be taken. The preventive aspect referred to by Mr. Yutzis was, moreover, reflected in the wording of the second sentence.

99. The CHAIRMAN said he took it that the Committee agreed to the amendments proposed by Mr. Bossuyt.

100. Paragraph 7, as amended, was adopted.

Paragraph 8

101. Mr. BOSSUYT, supported by Mr. BANTON, said that paragraph 8 should be deleted because no provision of the Convention required States parties to take special measures to facilitate the integration of aliens.

102. Paragraph 8 was deleted.

Paragraph 9

103. Mr. RESHETOV proposed that paragraph 9 should be deleted because it was not the Committee's practice to formulate that type of recommendation.

104. Paragraph 9 was deleted.

Paragraph 10

105. Mr. YUTZIS said that the word "which" in the second sentence should be replaced by the word "whose".

106. Paragraph 10, as amended, was adopted.

Paragraph 11

107. Mr. YUTZIS said that the word "procedures" in the second sentence should be replaced by the word "procedure".

108. Mr. BOSSUYT proposed that the word "refugees" should be replaced by the word "asylum-seekers", which was more appropriate because it covered all possibilities.

109. Mr. NOBEL pointed out that some refugees were not asylum-seekers. Some settled in a host country under quota agreements concluded by the Government and the Office of the United Nations High Commissioner for Refugees and others were displaced from one country to another.

110. Mr. YUTZIS proposed that the words "and/or asylum-seekers" should be added after the word "refugees".

111. Paragraph 11, as amended, was adopted.

112. Ms. ZOU, supported by Mr. BOSSUYT and the CHAIRMAN, speaking as a member of the Committee, said that it was absolutely necessary to commend the Danish Government on having followed up so quickly on the Committee's recommendation in the case of the Iraqi widow who had been separated from her son when she had settled in Denmark, which had been brought before the Committee at the current session. In the statement by the Minister of the Interior which had recently been transmitted by the Permanent Mission of Denmark to the Committee, it was stated that the Danish Immigration Service had changed policy and now took account of dependency links between parents and adult children, or between adult siblings, and not only of quotas set by municipalities when assigning a place of residence to a refugee.

113. The CHAIRMAN proposed that the Country Rapporteur should prepare a text congratulating and encouraging the State party accordingly.

114. It was so decided.

The meeting rose at 1 p.m.